

**MINUTES OF THE MEEETING
OF THE BOARD OF DIRECTORS OF
THE DEPARTMENT OF WATERWORKS**

Date: July 31, 2003

The Board of Directors (the "Board") of the Department of Waterworks (the "Department") met at 200 East Washington Street, Indianapolis, Indiana in the Public Assembly Room of the City-County Building. The following Board members were in attendance: Samuel L. Odle, John Mutz, S. Michael Hudson, Beulah Coughenour, and Barbara Howard.

I. Approval of the Minutes of July 31, 2003 Meeting

Chairperson Odle asked for motions for the approval of the minutes of the meeting of the Board as of July 31, 2003 (the "Minutes") as set forth in Exhibit A, attached hereto and made a part hereof. A motion was made and seconded for approval of the Minutes. The Board unanimously approved the Minutes as revised.

II. Approval of the Meeting Memorandum of July 31, 2003

Chairperson Odle asked for motions to approve the meeting memorandum of an executive session of July 31, 2003 (the "Memorandum") as set forth in Exhibit B, attached hereto and made a part hereof. A motion was made and seconded for approval of the Memorandum. The Board unanimously approved the Memorandum.

III. Financial Report of the Department

Robert Erney, Financial Manager of the Department, presented a financial report as set forth in Exhibit C, attached hereto and made a part hereof (the "Financial Report").

Chairperson Odle asked if the Department anticipates the amount of aging accounts receivable to decrease. Mr. Erney stated affirmatively and that the Department and USFilter Indianapolis Water, LLC ("USFIW") are exploring new approaches to collect these receivables.

Mr. Erney introduced Chuck White, Deputy Controller of the City of Indianapolis, to discuss the Department's 2002 audit.

Mr. White stated that the first audit of the city including the Department has been completed and that the city received unqualified financial opinions from the auditors. Mr. White stated all reporting by the Department's financial manager to date to the Board has been done on a cash basis. Mr. White highlighted certain parts of the audit focusing on accruals for debt issuance, post retirement benefits, payments in lieu of taxes and depreciation. Mr. White stated the auditors internally cited (1) accrual reporting (2)

stormwater billing and (3) a review of the Department's accounts. Mr. White stated that the city and the Department are working with USFIW to receive different information than it currently receives concerning accounts. He added that the auditor's comments as to stormwater billing and accrual reporting were not surprising given that the city did not have final purchase price allocation numbers from NiSource until December 2002 and the previously reported billing issues. Mr. White added from this date forward the Financial Report will be on an accrual basis.

Mr. Hudson asked if bad debt are accruals the Department picked up from NiSource. Mr. White responded affirmatively. Mr. Hudson asked Mr. White to elaborate on the post retirement benefits underfunding. Mr. White stated it is based on a May 2003 actuarial report received by the Department. He added that the plan was underfunded when the Department assumed its obligations from NiSource. Mr. Hudson asked if it was an actual increase in projected costs or changes in ERISA law as the cause of the underfunding. Mr. White stated the accrual amount reflects those matters and others.

Vice Chairperson Mutz asked for the Department's policy on bad debt. Mr. White stated a reserve exists for it and that the debt has not been written off. Vice Chairperson Mutz asked if the Department has historic data on this from previous years. Mr. White stated no and added that the Department's calculation was similar to that done by the water company in previous years.

Vice Chairperson Mutz asked as to the interest item, does the Department have large amount there. Mr. White stated that the Department's original bond issuance included \$15 million in capitalized interest to account for the \$20 million interest it knew would likely be due in 2002 because revenues would not account for the interest due in 2002. Vice Chairperson Mutz asked if total revenue less operating expenses and remove special items we still have cash flow. Mr. White responded affirmatively.

IV. USFIW Report

Jim Keene announced effective immediately that Tim Hewitt will be President and Operations of USFIW. Also, he added that David Gadis will be Vice President of Operations of USFIW.

Mr. Keene added that USFIW is strong and has a strong management team. He added that customer service has improved and that the employees stand the most to gain by utilizing local leaders. Mr. Keene stated that he will assume new responsibilities within USFilter in its major municipal projects initiatives. Mr. Keene thanked the following individuals during his tenure: the Board, the Department's staff, city officials, Jeff Dieterlen, Bob Miller, Carolyn Mosby, Donna Gunn, Jackie Groth, Rosemary Campbell, John Wood and Mark Sanderson.

Mr. Hewitt presented the report from USFIW as set forth in Exhibit D, attached hereto and made a part hereof ("USFIW Report"). Chairperson Odle wished Mr. Keene well

and thanked him for his service. He added congratulations to Mr. Hewitt and Mr. Gadis. Chairperson Odle remarked he was delighted to see local leadership.

V. Report of the Department's Director of Contracts and Operations

Mr. Curry presented his report as set forth in Exhibit E, attached hereto and made a part hereof (the "Department's Report"). Vice Chairperson Mutz asked what is a "residual systemic customer response problem". Mr. Curry stated that it referred to a billing complaint that had been previously submitted to USFIW by the Indiana Utility Regulatory Commission ("IURC") and had not been adequately addressed by USFIW as of the date of the Department's and USFIW's meeting with the IURC.

Kobi M. Wright, Special Assistant Corporation Counsel, stated that Rosemary Campbell of USFIW is in attendance and may be able to address the matter. Rosemary Campbell stated that the matter deals with a transfer of the bill from the developer to the homeowner and in this case the developer was still being billed. She added this has since been corrected.

Chairperson Odle asked for the cost of lab services to Speedway and Lawrence. Mr. Curry responded that the cost for USFIW to provide service to Speedway is approximately \$3,000 per month and a little more for Lawrence.

Vice Chairperson Mutz asked why USFIW originally did not accept these requests for lab services from the city and town. Mr. Curry stated he does not know if it was rejected but the service was not provided until Speedway directly appealed to him on the matter. He added that per the Ancillary Services Agreement with USFIW, the Department pays \$332,000 per year to USFIW to provide lab services to municipalities and other services to the Department. Mr. Curry stated that USFIW has not delivered the financial documents required under that agreement to document the services thus USFIW is delinquent in this regard. He stated he does not know what the issue is within USFIW as to providing this service.

Vice Chairperson Mutz asked if USFIW is now providing these services. Mark Sanderson of USFIW stated USFIW is working through this issue but has not denied the requests. He added that it is a matter of resource availability and whether it applies to the ancillary services agreement. Chairperson Odle asked if it is possible to help Speedway and Lawrence while we work things out. Mr. Sanderson stated that USFIW is working out how to address these matters. Mr. Curry added that the former Indianapolis Water Company lab provided these services as a matter of course to municipalities. Chairperson Odle stated that he thinks the Board would like for this matter to be worked out and services to be provided to the Department's neighbors and requested a report on the matter at next month's meeting.

Vice Chairperson Mutz asked if the Indiana State Museum had a project underway as to the canal's history. Mr. Curry stated it does however the archives are primarily for research purposes not visual displays.

Chairperson Odle asked if the Department has contacted Indiana University or IUPUI. Mr. Curry responded he believed so.

Chairperson Odle asked about the transfer of 1201 waterway boulevard property. Mr. Wright stated that the initial proposed purchaser is still interested in the property and is agreeable to paying the Department's appraisal costs which was approximately \$5400 not \$12,000. He added that the Department was in no position to know prior to the appraisal being undertaken what the fair market value of the property was and that the appraisal cost potentially could've been greater than the appraised value of the property. Mr. Wright stated that the disposal of the subject property can be placed on next month's Board agenda if it so desires.

Mr. Curry stated that he is working with the Service Advisory Board to gain input as to a conservation policy.

Chairperson Odle asked if any further questions were forthcoming from the Board.

Ms. Coughenour asked about the Department of Natural Resources ("DNR") meeting concerning the 5 day wait period prior to Cutrine treatment. Mr. Curry stated that DNR staff appeared to be favorable but given the notice concerns of DNR it is waiting for a response from the Attorney General's office.

Ms. Coughenour asked when will the Department get a response on the matter. Mr. Wright stated that DNR staff will forward our suggestion to DNR Commissioners who will likely amend the rule as proposed by DNR and then in a separate and subsequent action amend the rule to account for the Department's, USFIW's and Glenn Pratt's suggestion as to a 3 day waiting period. Mr. Wright stated he did not know the time period but that he may have a better idea once DNR staff sends its comments to the Department.

Ms. Coughenour asked how often do the commissioners meet. Mr. Wright stated he did not know. Ms. Coughenour asked if the amendment would occur sometime by next summer. Mr. Curry responded he hoped so.

Chairperson Odle asked what is the cause of the lack of quorum of the Service Advisory Board. Mr. Curry stated that board has missed quorum by one person for 4 meetings. Mr. Wright stated that is likely correct and that the membership of the board has grown to 18 members and that has presented difficulty to obtaining a quorum. He added that the board has asked counsel to suggest revisions to its procedures to revise the quorum requirements. Mr. Wright stated that there are local jurisdictions interested in serving actively on the board and others that have named representatives that have never attended meetings. Mr. Hudson asked that a record of attendance at the Service Advisory Board meetings be provided to the Board and placed in the Board's record in the future. Mr. Wright responded affirmatively.

Chairperson Odle asked that be done for all of the Department's groups.

VI. Resolution No. 15, 2003- Approval of Certain Capital Project

Mr. Curry summarized the resolution.

Chairperson Odle asked if the Board had any questions. Mr. Erney stated that the Board had previously approved capital project 2003-201 at \$200,000 and is now being proposed for an amendment to \$500,000.

Chairperson Odle asked for a motion to adopt the resolution. Vice Chairperson Mutz moved to adopt the resolution. Ms. Coughenour seconded the motion. The Board unanimously adopted the resolution.

VII. Other Business

Chairperson Odle placed into the record a letter he sent to Chris Williams of the Citizens Action Coalition ("CAC") as set forth in Exhibit F, attached hereto and made a part hereof, to address a number of comments made in Central Indiana's local media recently. Chairperson Odle stated he sent the letter to make sure CAC knew the facts.

Chairperson Odle stated the meeting was open to public comment and that persons should limit their comments to three minutes per person.

Ronald Rogers stated that water is one of the most underrated resources available and that it has public safety concerns. He added that USFIW intends to make a profit on water and one way is by depleting its workforce. Mr. Rogers added that another method is requiring the Department to pay for capital improvements which permits USFIW to cutback on maintenance crews. He added this will raise the cost the consumer bears. Mr. Rogers stated that employee attrition is not as expected. He added that oversights such as carbon related oversight matters is due to cost cutting. Mr. Rogers stated USFIW is taking credit for water quality improvements when the reality is it is due to other factors. He acknowledged that USFIW is more proactive in treating water quality. He stated people will not hold the Board accountable but the people who appointed you.

Clarke Kahlo stated that a Citizens Water Coalition has been formed which includes the Citizens Action Coalition, United Senior Action, MCANA, the Alliance for Democracy, Hoosier Environmental Council, Central Labor Council and AFCSME. He stated the group is concerned with billing errors, hydrant failures, poor customer service, benefit reduction, failure to provide open decision making process, lack of due diligence, lapses of fiduciary duty and questionable contractual practices. The group will recommend appropriate changes in the management of the utility. Mr. Kahlo stated the coalition favors ownership and management of the utility by Citizens Gas which he asserted is required by law. He added that Dr. Phil Borst appointed a three member committee to review the waterworks ownership and management. Mr. Kahlo stated that he hoped the

committee would move to address matters soon and have open and accessible hearings for public comment.

Tom Plummer, USFIW employee, stated USFIW employees received lump sum payouts that have been reduced because of their age and not based on a point system. He stated the employees earned the pension money under the prior company and was set aside in a pension fund. He said that money should not change and should be paid 100% to them. He compared the current situation to that of Enron, Worldcom and IPL. He stated that employees have seen how honorable men like the mayor can renege on promises and they will act to correct that in that in the upcoming election. He asked what does USFIW gain by not making these payments and to explain the current situation.

Glenn Pratt noted that USFIW is on its third operating personnel. He asked that USFIW deal with facts as to its treatments. Mr. Pratt stated USFIW raised the 9th circuit opinion as frivolous in front of DNR. Mr. Pratt stated that Mr. Quigley, USFIW's attorney, stated that USFIW would come after him personally or after his property if USFIW did not receive incentive payments because of Mr. Pratt's efforts. He added that USFIW is in fact collecting much of the data he wants to see but would like to make sure USFIW makes it available. He added that the previous mayor under different advisory groups never denied him information. Mr. Pratt stated that the Board's counsel and USFIW have repeatedly denied making information available.

Mr. Pratt added that USFIW and DOW have worked with him as to reducing the notice requirements. He added that emergency rules procedures are available to get relief. He added that the public has no ability to see the minutes, listing of agenda and technical advisory group information.

Mr. Wright asked Mr. Pratt what information has been denied to him by counsel. Mr. Pratt referred to his request for internal legal opinions as to the Department's governance. Mr. Wright stated these opinions were not disclosed per state law given that they are protected attorney client communications and work product. Mr. Pratt responded that as a citizen this is a democracy and not a totalitarian state.

Chairperson Odle underscored that he was glad that citizens live in a democracy where we can disagree and that respect should be maintained for such disagreement.

Wendy Brandt, President of the Indiana Coalition for Open Government, is concerned about public information and contractual relationships. Ms. Brandt stated that she has maintained a cordial relationship with Board counsel. She added that as to the 5 day notice period, that could be addressed by state's access counselor.

Approved this 28th day of August 2003.

Samuel L. Odle, Chairperson

Attest:

S. Michael Hudson,
Secretary-Treasurer